

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.295 of 2021

In
Civil Writ Jurisdiction Case No.8520 of 2020

-
-
1. Aditya Prakash son of Sri Anil Kumar Tiwary resident of Village and P.O.- Pauni Hasanpur, Abul Hasanpur, P.S. and District- Vaishali.
 2. Santosh Kumar son of Sri Suresh Prasad Singh resident of Village- Barhatiya, P.O.- Majhauri, P.S. and District- Vaishali.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. Director, Secondary Education, Government of Bihar, Patna.
4. Bihar School Examination Board, through its Secretary, Patna.
5. Chairman, Bihar School Examination Board, Patna.
6. Examination Controller (Miscellaneous), Bihar School Examination Board, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rajendra Narayan, Sr. Advocate Mr. Anju Kumari, Advocate
For BSEB	:	Mr. P.K. Shahi, Sr. Advocate Mr. Gyan Shankar, Advocate
For the State	:	Mr. Parijat Saurabh, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA)

Date: 08-04-2025

Heard the parties.

2. In the present Appeal the appellants/petitioners have challenged the Judgment and Order dated 04.03.2021 passed by the learned Single Judge in C.W.J.C. No. 8520 of 2020 whereby the learned Single Judge is contended to have



erroneously held that there was no illegality committed by the respondents in conducting the Re-Examination of Secondary Teachers' Eligibility Test, 2019 (hereinafter referred to as the 'STET, 2019') and disposed of the writ petition without granting any relief to the appellants/ petitioners. Being aggrieved the appellants/petitioners have filed this Intra-Court Appeal.

3. The case of the appellants/petitioners is that the respondent Bihar School Examination Board (hereinafter referred to as the 'BSEB') had advertised for holding STET, 2019 for appointment of Teachers in Government Secondary as well as Higher Secondary Schools in the State of Bihar. In response to and in furtherance of the said advertisement, the respondent- 'BSEB' had issued a notice vide Advertisement No. P.R.-17/2020 (Annexure '1' to the writ application) through its Examination Controller and informed the candidates for appearing in the said 'STET, 2019' for which date of test was fixed on 28.01.2020 to be held at all District Headquarters Centres in two shifts, i.e. from 10:00 to 12:30 P.M. and from 2:00 to 4:30 P.M. for Paper-I and Paper-II respectively. Necessary guidelines/directions were contained in the Advertisement which had to be followed by the candidates. The appellants/petitioners having requisite qualifications for the post



advertised and having the prescribed eligibility criteria applied for participation in 'STET, 2019'. They appeared in the examination on 28.01.2020. The appellants further contended that later the respondent- 'BSEB' issued an order on 16.05.2020 stating therein that reports had been received from five centres, namely-Saharsa, Gaya, Muzaffarpur, Gopalganj and Patna (A.N. College) that vandalism, disruption and imbroglio had taken place in the 'STET, 2019' and in connection with which enquiry had been setup which also reported/confirmed such incidents at those five centres and thus it was recommended for cancelling the said examination held on 28.01.2020 at all the 317 centres. It was also pointed out that the resentments shown by the candidates were also on account of large scale deficiencies in question paper setting and hence it was recommended to cancel the examination of 'STET, 2019' held on 28.01.2020. Consequently, it is stated that through letter dated 16.05.2020 'BSEB' decided to cancel the said examination held on 28.01.2020. After cancellation of the previous examination the 'BSEB' had written to the State Government under letter no.167 dated 11.06.2020 seeking permission to hold the Re-examination on-line through BELTRON and further that the choice of questions and preparation of syllabus to be done at the



level of the State Government. It was submitted that the said proposal to hold on-line examination was approved by the Government and communicated to 'BSEB' under Letter No. 360 dated 12.6.2020 issued by the Director, Secondary Education, Education Department, Government of Bihar. The learned Counsel for the appellants further submitted that despite the same, the Board went ahead and conducted the re-examination without formalizing a syllabus, which needed to be interfered with. Learned Counsel for the appellants also submitted that in the present case, the advertisement contained only the qualification and eligibility, but that would not amount to prescribing a syllabus and in absence of the same, the STET itself would be rendered unsustainable. The appellants/petitioners therefore had questioned the correctness of the advertisement by filing CWJC No.8520 of 2020, which has been disposed of without giving any relief to the appellants.

4. *Per contra*, the learned Advocate General submitted that the Board after cancellation of the previous examination for various reasons, had undertaken the exercise of holding a re-examination for which a communication was made to the State Government, but the State Government had approved only the holding of the examination by BELTRON



through the on-line mode and the second/other proposal of preparing a syllabus at the level of the State Government was not approved. It was further submitted that the Board thereafter had gone ahead and held the re-examination strictly in terms of the initial advertisement issued on 06.09.2019 vide Advertisement No. P.R.-17/2020. It was emphasized by the learned Advocate General that when the appellants/petitioners had applied pursuant to the initial advertisement and had appeared in the first examination on 28.01.2020, they had, at no point of time, raised any grievance, much less, as has been raised in the writ application and once having appeared in the first examination as well as in the re-examination, both conducted in terms of the same advertisement, now the appellants/petitioners could not have challenged the correctness of the advertisement in question by pointing out infirmity in the same. The learned Advocate General, thus emphasised the fact that the re-examination had been held strictly in terms of the first advertisement without there being any deviation whatsoever and the appellants/ petitioners have participated in the same. This position is not in dispute between the parties. Thus, to challenge the re-examination on the basis of purported deficiency in the initial advertisement, was not available to the



appellants/petitioners.

5. On careful consideration of the facts of this case and the submission made by the parties, we are of the view that the law is no longer *res-integra* that any process of examination or selection which starts from publication of the notification, cannot be changed at any subsequent stage thereafter, inasmuch the clock freezes in time for that particular exercise, once it is initiated.

6. The learned Single Judge has rightly held and observed that in the facts of the present case, the exercise was not held afresh and only the stage had changed, that is the stage of holding re-examination, as the earlier examination for various reasons had been cancelled and re-examination had been held. Thus, any change in the scope of the advertisement, by pointing out deficiency in the same could not be done as it would amount to modifying the advertisement, which is impermissible in law. If any modification was done in the advertisement, as was being requested by the appellants/petitioners then it would have amounted to circumventing the earlier order of this Court dated 22.05.2020 passed in CWJC No.5650 of 2020, where, before concluding, this Court had observed that the examination and setting of questions had to be done strictly in conformity with



the terms of the advertisement published by the Board.

7. The learned Single Judge was further correct in observing that once the re-examination had been held in terms of the initial advertisement, any deficiency pointed out by the appellants/petitioners at this stage, after having voluntarily participated in the process, could not be sustained.

8. The law is well settled by the Hon'ble Apex Court that once a candidate appears at an examination without objection and is subsequently found to be not successful, a challenge to the process is precluded. The candidate cannot subsequently turn around and contend that the process was unfair or that there was a lacuna therein, merely because the result is not palatable. The learned Single Judge has rightly relied on all the relevant Judgements on this issue in Para 13 of its Order & Judgment dated 04.03.2021 passed in CWJC No.8520 of 2020.

9. During the course of hearing when we confronted the learned Counsel appearing for appellants/petitioners as to how he can question the initial/original advertisement by alleging deficiency in the same when he had participated in the first examination as well as in the re-examination, both held in terms of the same advertisement, the learned Counsel did not



have any answer to the same. The learned Counsel for the appellants/petitioners also could not distinguish his case from the Judgements relied upon by the learned Single Judge as referred to in Para 13 of his Order & Judgment dated 04.03.2021.

10. Under the aforesaid facts and circumstances, we do not find that the appellants/petitioners have made out any case for interfering with the Order & Judgment dated 04.03.2021 passed in CWJC No.8520 of 2020 and hence the present LPA is dismissed.

Any pending Interlocutory applications filed by the appellants/ petitioners shall also stand dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Sinha, J)

Prakash Narayan

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16.04.2025
Transmission Date	NA

